

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

ASPECT SOFTWARE, INC.,

Plaintiff,

v.

GARY E. BARNETT,

Defendant.

CASE NO.: 1:11-cv-10754-DJC

**DEFENDANT GARY E. BARNETT'S MOTION TO  
ALTER AND/OR AMEND THE COURT'S ORDER OF MAY 27, 2011**

Pursuant to Rules 52(b), 59(e), and 60(b)(6) of the Federal Rules of Civil Procedure, Defendant Gary E. Barnett, by and through his undersigned counsel, hereby respectfully moves this Court for an Order amending and/or altering the Court's Order of May 27, 2011 (the "May 27 Order"). As grounds for this motion, Mr. Barnett relies upon the following documents, which were filed contemporaneously herewith: the Memorandum of Law in Support of His Motion to Alter or Amend the Court's Order of May 27, 2011; the Affidavit of Gary E. Barnett, dated June 20, 2011; the Affidavit of Alan Baratz, dated June 17, 2011; and the Affidavit of Charles T. Graves, dated June 20, 2011, and the Exhibits thereto.

WHEREFORE, we respectfully request that the Court sign the accompanying [Proposed] Order, which defines the scope of the May 27 Order such that Mr. Barnett receives predictability and certainty regarding his role at Avaya, and does not unwittingly expose himself to a motion for contempt.

**REQUEST FOR ORAL HEARING**

Defendant Gary E. Barnett hereby respectfully requests that the Court hear oral argument on this Motion.

Respectfully submitted,

GARY E. BARNETT

By his attorneys,

/s/ Marina C. Tsatalis

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Dated: June 20, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing and paper or electronic copies will be delivered to those indicated as non-registered participants on June 21, 2011.

/s/ Stephen B. Reed

Stephen B. Reed